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**IN THE
COURT OF APPEALS OF INDIANA**

THOMAS L. PRYOR,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 82A01-0606-CR-234
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE VANDERBURGH SUPERIOR COURT
The Honorable Richard G. D'Amour, Magistrate-Judge
Cause No. 82D05-0509-CM-6668

March 28, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAKER, Chief Judge

Appellant-defendant Thomas L. Pryor appeals from his conviction for Criminal Mischief,¹ a class A misdemeanor. Specifically, Pryor argues that there is insufficient evidence supporting his conviction. Finding no error, we affirm the judgment of the trial court.

FACTS

Pryor has a son, Timothy Pryor, whose mother is Peggy Agent. On August 7, 2005, Peggy, her husband, Jeffrey Agent, Timothy, and Jeffrey's daughter drove from Kentucky to Pryor's home in Vanderburgh County. The purpose of the trip was to drop off Timothy, who was fifteen years old at the time, at Pryor's residence.

Upon their arrival, Pryor was standing outside his house and began yelling before anyone exited the vehicle. Timothy then got out of the vehicle and entered the house. Pryor started yelling at Peggy because he believed that she should have consulted him before keeping Timothy longer than Pryor had expected. Jeffrey reminded Pryor that they had returned Timothy to Pryor later than expected in the past with no problems and suggested that Pryor and Peggy needed to work out a better visitation schedule.

Pryor attempted to grab Jeffrey's window, at which time Jeffrey instructed Peggy to roll up her window. Pryor ran around the vehicle to the front passenger door and "slapped" the car; he then went to the driver's side of the vehicle and "hit it." Tr. p. 13, 29. Jeffrey exited the car and Pryor then attempted to strike him. Jeffrey kicked Pryor in the leg. At that point, Timothy ran out of the house and pushed Pryor to the ground. Jeffrey returned to the

¹ Ind. Code § 35-43-1-2(a)(1)(A).

vehicle but, before Jeffrey could drive away, Pryor kicked the right rear side of the car, causing damage to the vehicle. Jeffrey then stopped the vehicle and asked Peggy to call the police.

On September 30, 2005, the State charged Pryor with one count of class A misdemeanor criminal mischief. A bench trial was held on March 9, 2006, at the conclusion of which the trial court found Pryor guilty as charged. On the same day, the trial court sentenced Pryor to 90 days in the Vanderburgh County Jail, with all 90 days suspended, and ordered Pryor to pay restitution in the amount of \$513.53. Pryor now appeals.

DISCUSSION AND DECISION

Pryor argues that there is insufficient evidence supporting his conviction. In reviewing claims of insufficient evidence, we neither reweigh the evidence nor judge the credibility of witnesses. Jones v. State, 783 N.E.2d 1132, 1139 (Ind. 2003). Instead, we examine only the evidence most favorable to the judgment and all reasonable inferences that may be drawn therefrom. Birdsong v. State, 685 N.E.2d 42, 45 (Ind. 1997). We will affirm where the evidence and inferences provide substantial evidence of probative value to support the judgment. Jones, 783 N.E.2d at 1139. To convict Pryor of criminal mischief, the State was required to establish that he knowingly damaged Jeffrey's car without Jeffrey's consent and that the pecuniary loss was greater than \$250. I.C. § 35-43-1-2(a)(1)(A).

Essentially, Pryor argues that the evidence does not establish that he kicked Jeffrey's vehicle.² At trial, the State presented testimony from Jeffrey, Peggy, and Timothy. Timothy

² Pryor does not contest the trial court's valuation of the damage done to Jeffrey's vehicle.

was standing right next to Pryor when Pryor kicked the vehicle. Tr. p. 26. Peggy looked over her left shoulder and witnessed Prior kick the car. Id. at 31. Jeffrey heard a loud bang as he drove slowly past Pryor. Id. at 20. This evidence is sufficient to establish that Pryor kicked Jeffrey's vehicle. Pryor's arguments that the witnesses all had motives to lie and that we should credit his testimony over theirs are mere requests for us to reweigh the evidence and judge the credibility of witnesses—requests that we decline.³ Consequently, we conclude that there is sufficient evidence supporting Pryor's conviction.

The judgment of the trial court is affirmed.

FRIEDLANDER, J., and CRONE, J., concur.

³ Pryor also seems to raise an argument regarding the “incredible dubiousity” rule, but this rule is limited to cases in which a sole witness presents inherently contradictory testimony and there is a complete lack of circumstantial evidence of the defendant's guilt. Newson v. State, 721 N.E.2d 237, 240 (Ind. 1999). Here, three witnesses testified that Pryor kicked the vehicle. Their respective testimonies were corroborative, direct, and unequivocal. Under these circumstances, the incredible dubiousity rule does not apply.